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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,812	09/23/2003	Oscar Barba	PC25378A	7011
28940	7590	09/07/2006	EXAMINER	
PFIZER INC 10555 SCIENCE CENTER DRIVE SAN DIEGO, CA 92121			SAEED, KAMAL A	
			ART UNIT	PAPER NUMBER
			1626	

DATE MAILED: 09/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/669,812

Applicant(s)

BARBA ET AL.

Examiner

Kamal A. Saeed

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☒ Claim(s) 16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Claims 4-15 have been cancelled. Therefore, claims 1-3 and 16 are currently pending in this application.

Response to Amendment and Remarks

The rejection 16, under 112, 2nd Paragraph as set forth in the previous office action has been overcome by the Amendment filed on 27 June 2006.

New Grounds of Rejection

Claim Rejections - 35 USC § 102

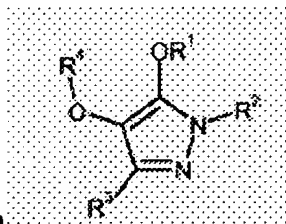
The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent, unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

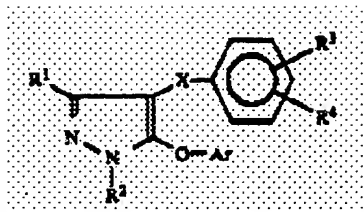
Claim 1 is rejected under 35 U.S.C. 102 (a) as being anticipated by U.S. Patent No. 5,189,040 to Ohsumi et al.

The elected compounds and compositions of claims 1-3 are directed to compounds of



Formula as defined in claim 1.

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Ohsumi et al., teach compounds of Formula 1 wherein: Ar is a six-membered heterocyclic group having one or more N atoms in the ring; X is O, S or methylene group; R1 is hydrogen or lower alkyl group and R2 is a lower alkyl group. These compounds anticipate the compounds claimed in claim 1, wherein R1 is a six-membered heterocyclic group having 1-4 nitrogen heteroatoms; R4 is an optionally substituted phenyl group; R2 and R3 independently represent H or lower alkyl groups. (See U.S. Patent No. 5,189,040 compounds depicted in Table 1, col. 4-20).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a), which forms the basis for all obviousness rejections, set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

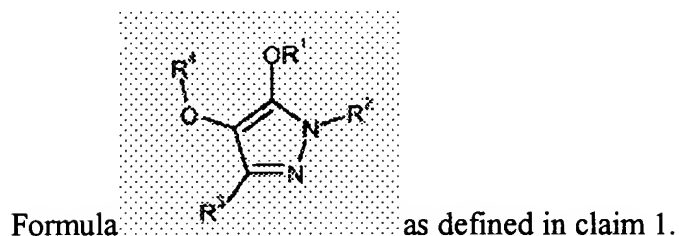
The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

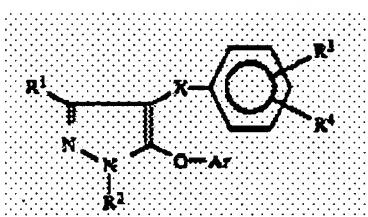
1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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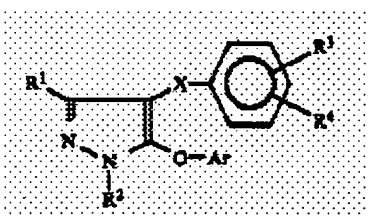
Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,189,040 to Ohsumi et al.

The elected compounds and compositions of claims 1-3 are directed to compounds of



Ohsumi et al., teach compounds of Formula  wherein: Ar is a six-membered heterocyclic group having one or more N atoms in the ring; X is O, S or methylene group; R1 is hydrogen or lower alkyl group and R2 is a lower alkyl group.

Determination of the scope and content of the prior art (MPEP §2141.01)

Ohsumi et al., teach compounds of Formula  wherein: Ar is a six-membered heterocyclic group having one or more N atoms in the ring; X is O, S or methylene group; R1 is hydrogen or lower alkyl group and R2 is a lower alkyl group. These compounds anticipate the compounds claimed in claim 1, wherein R1 is a six-membered heterocyclic group having 1-4 nitrogen heteroatoms; R4 is an optionally substituted phenyl group; R2 and R3 independently represent H or lower alkyl groups.

Ascertainment of the difference between the prior art and the claims (MPEP §2141.02)

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The difference between the prior art of Ohsumi et eland the instantly claimed compounds is that R2 of the present compounds could be H, while R2 in the prior art could be methyl.

Finding of prima facie obviousness--rational and motivation (MPEP §2142-2413)

However, in the absence the showing of unobvious results, it would have been obvious to one One skilled in the art would have found the claimed compound prima facie obvious because it is well established that the substitution of methyl for hydrogen on a known compound is not a patentable modification absent unexpected or unobvious results. In re Wood, 199 U.S.P.Q. 137 (C.C.P.A. 1978) and In re Lahr, 137 U.S.P.Q. 548, 549 (C.C.P.A. 1963). The motivation to make the claimed compounds derives from the expectation that structurally similar compounds would possess similar activity.

Objections

Claim 16 is objected to for containing non-elected subject matter.

Telephone Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kamal Saeed whose telephone number is (571) 272-0705.

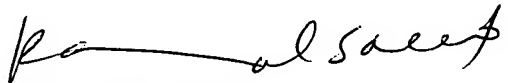
The examiner can normally be reached on Monday-Friday from 8:00 AM – 5:00 PM.

When filing a FAX in Technology Center 1600, please indicate the Header (upper right) “Official” for papers that are to be entered into the file, and “ Unofficial” for draft documents and other communications with the PTO that are not for entry into the file of the application. This will expedite processing of your papers.

Communication via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by applicant and should be

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addressed to [joseph.mckane@uspto.gov]. All Internet e-mail communications will be made of record in the application file. PTO employees will not communicate with applicant via Internet e-mail where sensitive data will be exchanged or where there exists a possibility that sensitive data could be identified unless there is of record an express waiver of the confidentiality requirements under 35 U.S.C. 122 by the applicant. See the Interim Internet Usage Policy published by the Patent and Trademark Office Official Gazette on February 25, 1997 at 1195 OG 89.


KAMAL A. SAEED, PH.D.
PRIMARY EXAMINER